



June 19, 2000

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Re: Migrant Projects

Dear Director:

It has been well over a month since we had the opportunity to meet in the Texas Hill Country to discuss the migrant delivery system. Now that we have had time to digest much of the informative and provocative discussions and presentations made during the conference, I want to share with you LSC's thoughts about migrant delivery. The purpose of this letter is: to reaffirm LSC's commitment to fund projects for migrant farmworkers; to express our expectations regarding the work of migrant projects; and to describe the core capacities all migrant projects are expected to attain and how some projects, represented at the conference, are currently working to attain those capacities.

*Migrant Legal Services Projects*

In the Legal Services Corporation Act of 1974, Congress directed LSC to study whether certain client groups, including migrant and seasonal farmworkers, face special barriers restricting their access to legal assistance and whether they have special unmet legal needs. The study, which LSC undertook in 1977-78, found with respect to migrant farmworkers that (1) migrant workers do face special barriers which limit their access to the legal assistance delivered by field programs; and (2) migrants do have specialized legal needs which cannot adequately be met through the regular basic field delivery system. Building on these findings, the "1007(h) study," as it became known, concluded that there was a need for a system of specialized migrant legal services projects in order to overcome the access barriers faced by migrants and to meet the special legal needs of migrants. This study also determined the basic structure and features of the migrant legal services delivery system under which we have operated under ever since.

The discussions during the conference, many of the factual findings of the Erlenborn Commission, which examined farmworker law practice in the context of representation of non-U.S. citizens, our work with migrant grant recipients, and information, which we receive from migrant legal services programs during the grant-making process, lead LSC to conclude that factors enumerated in the 1007(h) study are as true today as they were 22 years ago. The nature of migrant work and the specialized legal needs of migrants require specialized units

within field programs staffed by advocates with the skills necessary to represent this special population.

*The Work of Migrant Legal Services Projects*

During the conference and in papers prepared for the conference, several issues, involving a migrant legal services practice, were discussed. These issues included: which clients are eligible for services from the migrant legal services project; definition of "farm work;" the use of migrant funding for the representation of non-migrant farmworkers; migrant grant budgeting practices; outreach; and the representation of farmworkers on non-farmworker status issues.

At this time, LSC does not intend to promulgate any regulations on any of these topics. However, LSC expects that migrant legal services projects:

- a. should primarily represent those clients in need of legal assistance from a specialized migrant unit because (1) they are faced with barriers which otherwise restrict clients' access to legal assistance and (2) they have specialized legal needs which arise from their work in agriculture and status as a farmworker;
- b. should treat some types of work, not typically thought of as "farm work" as farm work or agricultural employment. This work includes: work in forestry; nursery work; cotton ginning; mushroom growing; seed conditioning; pine bough tying; aloe vera processing; work on sod farms; work in meat and poultry processing plants; livestock and feed lot work; sheepherding; work on egg farms and tobacco housing/stripping warehousing; and
- c. should conduct outreach to farmworker clients consistent with 45 C.F.R. section 1638.

These expectations are based on LSC's recognition of several factors. First, funding for migrant legal services programs is limited compared to the level of need. Second, the 1007(h) study, which describes the reasons for migrant legal services projects, is still valid today. Third, the nature of "farmwork" has changed since LSC first began funding migrant projects. Since that time, migrants have become employed in jobs related to agriculture but which were formerly held by year round or seasonal workers. Finally, targeted outreach to migrant farmworkers in places where they live and work is a critical component of a migrant legal services project's practice.

With regard to these expectations, basic field programs (with migrant farmworker projects) themselves:

- a. and not the migrant project should represent those farmworkers who do not or no longer migrate on non-status related issues;
- b. should permit the migrant project to represent those farmworkers who do not or no longer migrate on status related issues. However, if the migrant project's representation of these farmworkers is substantial, LSC strongly encourages the parent program to compensate the migrant project accordingly;
- c. should reasonably budget office overhead expenses from migrant program grant funds; and

- d. should take steps to ensure that migrant project staff, who divide their time between the migrant project and the parent program, are able to devote an amount of time to their migrant project duties consistent with the migrant project's funding and the level of their migrant project duties.

#### *Core Capacities of Migrant Legal Services Projects*

Several core capacities for migrant legal services projects were identified following a presentation and discussion of two papers authored by Luis Jaramillo of CRLA and by Alan Houseman of the Center for Law and Social Policy. These core capacities called for the provision of quality focused legal work on the most compelling legal needs of migrant farmworkers, which are unique and significant to migrants. Migrant projects, regardless of size, need to take steps to ensure that they:

- a. have high quality, experienced, informed advocates;
- b. are well managed;
- c. accomplish effective outreach;
- d. accomplish effective community legal education for migrants;
- e. have effective support for the advocacy that needs to get done;
- f. have an effective capacity for training; and
- g. are part of a coordinated system of service with a capacity to provide a full range of service to farmworkers in their states.

LSC agrees with these core capacities. LSC further recognizes that many migrant projects, because of their limited funding, are unable to achieve these core capacities on their own. In order to attain these core capacities, LSC expects migrant projects to address changes in the way they function or are organized. Further, LSC expects that the unmet legal needs of migrant farmworker clients be addressed in the context of state planning, which is underway in all states.

#### *Migrant Project Plans Thus Far*

We were very pleased with the results of the regional break-out meetings where programs focused on how migrant projects can strengthen their capacities to provide quality legal services. These discussions were only a beginning and we did not expect any concrete decisions being made during these regional meetings. However, some regional meetings did result in concrete plans. For example, in New England six states agreed to come together as a region and asked LSC to change the migrant service areas for these six states to one regional service area. Pine Tree Legal Assistance in Maine will apply for this grant. In the Southeast, Alabama agreed to subgrant their migrant grant to TRLA for 2001. The Southeastern states recognized the need for a stronger regional network of migrant programs and took steps to improve the regional network. TRLA agreed to immediately develop a list-serve for the southeastern migrant programs, which will allow for instant communication among advocates. The states in the Western region recognized that they had time only to scratch the service of a number of delivery issues in this large region. Several programs agreed to be responsible for taking the lead on a series of conference calls to ensure that the discussion continues. The Mid-Atlantic states also scheduled future meetings to continue a consortium approach to strengthening program capacities. The Midwest divided themselves into an upper and lower region and agreed to undertake initiatives in the areas of training, technology and communication, standard setting and peer review, coordination and planning, and fundraising.

LSC was very impressed with the level of discussion during the regional meetings. All programs, especially the states with small migrant grants, were genuinely interested in devising ways to function better. Program participants looked beyond their state borders and viewed themselves as a nationwide community of advocates striving to fashion ways to leverage collective resources to improve legal services to migrant clients throughout the U.S. The challenge now for this community of advocates is to sustain the enthusiasm felt during the migrant delivery conference as the migrant projects continue to wrestle with these difficult delivery issues.

LSC's Office of Program Performance (OPP) staff will be periodically calling program directors to ascertain the progress being made in the regions to strengthen the core capacities of migrant projects. Further, in reviewing migrant grant applications for 2001, the Corporation will pay particular attention to whether migrant projects have taken steps to develop these core capacities in their migrant projects.

Thank you for participating in the conference. If you have any questions about the conference or on migrant delivery, please call Cyndy Schneider with OPP at (202) 336-8803.

Sincerely,

John McKay  
President

cc: LSC Board Members  
Migrant Delivery Conference Participants